

## § 575.203

(2) A senior-level or scientific or professional position paid under 5 U.S.C. 5376;

(3) A Senior Executive Service position paid under 5 U.S.C. 5383 or a Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service position paid under 5 U.S.C. 3151;

(4) A position as a law enforcement officer, as defined in § 550.103 of this chapter.

(5) A position under the Executive Schedule established under subchapter II of chapter 53 of title 5, United States Code, or a position the rate of pay for which is fixed by law at a rate equal to a rate for the Executive Schedule;

(6) An executive branch position filled by Presidential appointment (with or without the advice and consent of the Senate); or

(7) A prevailing rate position, as defined in 5 U.S.C. 5342(a)(3).

(b) The delegation of authority under paragraph (a) of this section shall not apply to the payment of a relocation bonus to—

(1) The head of an agency, including an agency headed by a collegial body composed of two or more individual members; or

(2) An employee appointed to a position in the expectation of receiving an appointment as the head of an agency.

(c) The head of an Executive agency may request that OPM authorize the payment of a relocation bonus to one or more categories of employees of his or her agency not otherwise covered by 5 U.S.C. 5753 or this subpart.

(d) When OPM finds that an agency is not paying relocation bonuses in conformance with the agency's relocation bonus plan and the criteria established under § 575.204 of this part or otherwise determines that the agency is not using this authority selectively and judiciously, it may—

(1) Direct the agency to revoke or suspend the authority granted to any organizational component of the agency and with respect to any category or categories of employees and require that prior approval be secured at headquarters level before paying a relocation bonus to such employees; or

(2) Revoke or suspend the authority granted to the head of the agency by

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paragraph (a) of this section for all or any part of the agency and with respect to any category or categories of employees and require that prior OPM approval be secured before paying a relocation bonus to such employees.

[56 FR 12838, Mar. 28, 1991, as amended at 57 FR 37398, Aug. 19, 1992; 58 FR 3201, Jan. 8, 1993; 58 FR 65537, Dec. 15, 1993; 64 FR 69181, Dec. 10, 1999; 66 FR 37883, July 20, 2001]

### § 575.203 Definitions.

In this subpart: *Agency* has the meaning given that term in 5 U.S.C. 5102.

*Commuting area* means the geographic area surrounding a work site that encompasses the localities where people live and reasonably can be expected to travel back and forth daily to work, as established by the employing agency based on the generally held expectations of the local community. When an employee's residence is within the standard commuting area for a work site, the work site is within the employee's commuting area. When an employee's residence is outside the standard commuting area for a proposed new work site, the employee's commuting area is deemed to include the expanded area surrounding the employee's residence and including all destinations that can be reached via a commuting trip that is not significantly more burdensome than the current commuting trip. This excludes a commuting trip from a residence where the employee planned to stay only temporarily until he or she could find a more permanent residence closer to his or her work site. For this purpose, a commuting trip to a new work site is considered significantly more burdensome if it would compel the employee to change his or her place of residence in order to continue employment, taking into account commuting time and distance, availability of public transportation, cost, and any other relevant factors.

*Employee* means—

(a) An individual in the civil service (as defined in 5 U.S.C. 2101) who is relocated without a break in service upon appointment to a position in or under an agency in a different commuting area; or

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(b) An employee in or under an agency whose duty station is changed permanently or temporarily to a different commuting area.

*Head of agency* means the head of an agency or an official who has been delegated the authority to act for the head of the agency in the matter concerned.

*Involuntarily separated* refers to a separation initiated by an agency against the employee's will and without his or her consent for reasons other than cause on charges of misconduct or delinquency. An involuntary separation includes a separation resulting from the employee's actual inability to do the work following genuine efforts to do so, but does not include a separation under part 752 of this chapter or an equivalent procedure for reasons that involve culpable wrongdoing on the part of the employee. In addition, when an employee is separated because he or she declines to accept assignment outside his or her commuting area, the separation is involuntary if the employee's position description or other written agreement does not provide for such reassignment. However, an employee's separation is not involuntary if, after such a written mobility agreement is added, the employee accepts one reassignment outside his or her commuting area, but subsequently declines another such reassignment.

*Rate of basic pay* means the rate of pay fixed by law or administrative action for the position to which the employee is being relocated or, in the case of an employee who is entitled to grade or pay retention, the employee's retained rate of pay, before deductions and exclusive of additional pay of any kind, such as locality-based comparability payments under 5 U.S.C. 5304 or special pay adjustments for law enforcement officers under section 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101-509).

*Service agreement* means a written agreement between an agency and an employee under which the employee agrees to a specified period of employment with the agency at the new duty

station to which relocated in return for payment of a relocation bonus.

[56 FR 12838, Mar. 28, 1991, as amended at 57 FR 37398, Aug. 19, 1992; 60 FR 33326, June 28, 1995; 60 FR 35601, July 10, 1995; 61 FR 3543, Feb. 1, 1996; 64 FR 69182, Dec. 10, 1999]

### **§ 575.204 Agency relocation bonus plans; higher level review and approval; criteria for payment; and exceptions to case-by-case approval.**

(a) *Agency relocation bonus plans.* (1) Before paying a relocation bonus under this subpart, the head of an agency shall establish a relocation bonus plan.

(2) A relocation bonus plan shall include the following elements:

(i) The designation of officials with authority to review and approve payment of relocation bonuses;

(ii) Criteria that must be met or considered in authorizing bonuses, including criteria for determining the size of a bonus;

(iii) Procedures for paying bonuses;

(iv) Requirements for service agreements; and

(v) Documentation and record-keeping requirements sufficient to allow reconstruction of the action.

(b) *Higher level review and approval.* Except as provided in paragraph (d) of this section, each determination to pay a relocation bonus, including the amount of such bonus, shall be reviewed and approved by an official of an agency who is at a higher level than the official who made the initial decision, unless there is no official at a higher level in the agency.

(c) *Criteria for payment.* (1) Each bonus paid under this subpart shall be based on a written determination that, in the absence of such a bonus, the agency would encounter difficulty in filling the position. Each such determination shall be made before the employee actually enters on duty in the position to which he or she was relocated. An agency may target groups of positions that have been difficult to fill in the past or that may be difficult to fill in the future. However, except as provided in paragraph (d) of this section, any determination to pay a bonus shall be made on a case-by-case basis for each employee.